

ESTTA Tracking number: **ESTTA521486**

Filing date: **02/13/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91208718
Party	Defendant Courion Corporation
Correspondence Address	ROBERT M. O'CONNELL, JR. GOODWIN PROCTER LLP EXCHANGE PLACE 53 STATE ST BOSTON, MA 02109 tmadmin@goodwinprocter.com
Submission	Answer
Filer's Name	Anthony H. Cataldo
Filer's e-mail	rcarroll@goodwinprocter.com, roconnell@goodwinprocter.com, acataldo@goodwinprocter.com, tmadmin@goodwinprocter.com
Signature	/Anthony H. Cataldo/
Date	02/13/2013
Attachments	Courion's Answer and Defenses.pdf (5 pages)(20497 bytes)

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Opposition, and therefore denies them and calls for strict proof thereof.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Opposition, and therefore denies them and calls for strict proof thereof.

3. Applicant admits that Opposer is the record owner of the registrations listed, but states further that the contents of those documents speak for themselves. To the extent to which Paragraph 3 mischaracterizes the contents of those documents, Applicant denies same. Paragraph 3 also states legal conclusions to which no response is required. To the extent that Paragraph 3 states any other factual allegations or otherwise requires a response, Applicant denies those allegations and calls for strict proof thereof.

4. Paragraph 4 of the Opposition states legal conclusions regarding the accrual of common law trademark rights, to which no response is required. To the extent that Paragraph 4 states any factual allegations or otherwise requires a response Applicant states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4, and therefore denies them and calls for strict proof thereof.

5. Paragraph 5 of the Opposition states legal conclusions regarding fame, to which no response is required. To the extent that Paragraph 5 states any other factual allegations or otherwise requires a response, Applicant states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5, and therefore denies them and calls for strict proof thereof.

6. Applicant admits that it is a Delaware corporation and that it has an office at 1900 West Park Drive, First Floor, Westborough, Massachusetts 01581-3919.

7. Applicant admits that it filed application Ser. No. 85/430,480 (the “Application”) on September 23, 2011 on an intent-to-use basis in connection with the goods recited in the Application. Applicant further states that the Application speaks for itself.

8. Denied.

9. Applicant admits that it has filed application serial no. 85/509,528, but denies that it is relevant to this proceeding. Applicant denies the remaining allegations in Paragraph 9 of the Opposition and the accompanying Footnote 1.

10. Applicant denies the allegations of the first sentence of Paragraph 10 of the Opposition. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of Paragraph 10 of the Opposition, and therefore denies them and calls for strict proof thereof.

11. Denied.

12. Denied.

13. Applicant admits that it filed the Application on September 23, 2011. The remaining allegations of Paragraph 13 are legal conclusions to which no response is required. To the extent that Paragraph 13 states any other factual allegations or otherwise requires a response, Applicant denies the allegations.

14. Applicant admits that there is no relationship between Applicant and Opposer and that Opposer has not expressly authorized Applicant’s Application or use of the mark set forth therein. Applicant admits that it is the owner of record for Registration No. 3,089,904, but denies that it is relevant to this proceeding. Applicant denies the remaining allegations of paragraph 14 and the accompanying Footnote 2.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

ADDITIONAL DEFENSES

SECOND DEFENSE

The Notice of Opposition should be stricken for failure to set forth a short and plain statement of the facts as required by Trademark Rule 2.104(a).

THIRD DEFENSE

Applicant hereby reserves its right to assert any and all other defenses as appropriate as they present themselves through the course of this proceeding.

WHEREFORE, Applicant Courion Corporation respectfully prays that this Board dismiss the Notice of Opposition and deny all relief requested therein, remand the Application for issuance of the registration, and grant such other and further relief as the Board deems just and proper.

Respectfully submitted,

COURION CORPORATION,

By its Attorneys,

Dated: February 13, 2013

/Anthony H. Cataldo/

Robert D. Carroll

Anthony H. Cataldo

Goodwin Procter LLP

Exchange Place

Boston, Massachusetts 02109

Tel: (617) 570-1000

Fax: (617) 523-1231

tmadmin@goodwinprocter.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition and Additional Defenses was served upon Attorneys for Opposer on February 13, 2013, via First Class Mail, postage prepaid to:

Susan L. Heller
Candice E. Kim
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles, California 90067

and via electronic mail to:

LATM2@gtlaw.com

/Anthony H. Cataldo/
Anthony H. Cataldo